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FISHBURN

LLP

March 18, 2005

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FAIR POLITICAL
PRACTICES COMMISSION
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VIA HAND DELIVERY

Commission Chair Liane M. Randolph
Fair Political Practices Commission
428 J Street, Suite 620
Sacramento, CA 95814

**Re: FPPC Agenda Item 24: Approval of 2005 Campaign Manual
Addendum**

Dear Commission Chair Randolph:

I write on behalf of the Alliance for a Better California regarding the above matter. As you are no doubt well aware, Governor Schwarzenegger has engaged in a blatant and bold plan to circumvent the contribution limits imposed by Proposition 34 in an effort to promote his political agenda and his re-election bid in 2006. In adopting the proposed 2005 Campaign Manual Addendum as drafted, the FPPC will unwittingly assist the Governor in that effort.

I refer specifically to the section on page 4 titled "Limits and Restrictions for State Candidates and Committees including Controlled Ballot Measure Committees." While the text correctly states that ballot measure committees controlled by a candidate are now subject to contribution limits, it erroneously states "Contributions to a controlled ballot measure committee are not aggregated with contributions to other committees controlled by a state candidate including other controlled ballot measure committees." (emphasis added) Regulation 18530.9 is cited as authority for this statement.

However, regulation 18530.9 contains no such statement. And, to give meaning to regulation 18530.9 as suggested by the draft Campaign Manual Addendum would result in a perverse interpretation of Proposition 34.

To see how Proposition 34 would be undermined by the above interpretation, one need only look at what Governor Schwarzenegger has done in the past and is currently doing to promote himself and his political agenda. Last year, before the FPPC imposed contribution limits upon candidate controlled ballot measure committees, the Governor controlled at least three separate ballot measure committees. Each of these committees ran television ads prominently featuring the Governor and aligning the Governor with major political issues appearing on the March and November statewide ballots. Under the proposed language of the Campaign Manual Addendum, the Governor would be permitted to raise maximum contributions from the same donor into his 2006 re-election committee as well as the three controlled committees.

Lance H. Olson
Bruce J. Hagel
Diane M. Fishburn
Elizabeth L. Gade
Deborah B. Caplan
N. Eugene Hill
Richard C. Miodich
Melissa A. Mikesell
Erin V. Peth

And in fact, this is precisely what the Governor is doing this year, a year when he has made it clear he will call a special election just months before he will appear on the statewide ballot as a candidate for re-election.

Just two days ago, the Governor hosted a fundraiser at the Century Plaza Hotel in Los Angeles where he simultaneously solicited maximum contributions from donors into both his 2006 re-election committee and his candidate controlled ballot measure committee, California Recovery Team. In what can only be described as unabashed arrogance mixed with a complete disregard for the law, the Governor even encouraged donors to give twice the maximum contribution to the California Recovery Team, apparently on the theory that donors may contribute the maximum contribution for the primary and general elections. Given that the California Recovery Team was in theory established for purposes unrelated to the Governor's re-election, we can only assume that he is now dropping all pretenses that the California Recovery Team has any purpose other than to promote his re-election.

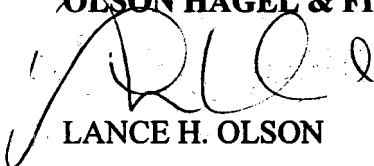
In the event there is any doubt on this point, one need only read the language of the cover fax memo that was sent out to donors with the invitation for the March 16 event. The memo states "March 16, 2005, is the only event scheduled so far this year in Los Angeles to benefit Governor Schwarzenegger. Now is your chance to show your support for our fantastic Governor." (emphasis added) Can there be any question that the Governor is using these candidate controlled ballot measure committees to "benefit" his re-election?

Thus, under the Governor's current fundraising plan a single donor is asked to donate \$89,200 to committees controlled by him. If history is any teacher, we know these committees will run television ads promoting the Governor and his political agenda. Imagine if he decides to establish additional ballot measure committees as he did last year. There would literally be no limits on his fundraising. This is hardly what the voters intended when they adopted Proposition 34.

We urge the Commission to not sanction the Governor's blatant disregard for the will of the voters and clear intent of Proposition 34. We specifically request that the Commission delete the referenced language in the Campaign Manual Addendum and insert in its place language that makes it clear that candidates for state elective office who chose to establish controlled ballot measure committees share one combined contribution limit. To do otherwise would permit the kind of arrogant and outrageous fundraising presently engaged in by the Governor.

Very truly yours,

OLSON HAGEL & FISHBURN LLP



LANCE H. OLSON

LHO/all

Enclosures: 1. Page 4 from 2005 Campaign Manual Addendum; 2. Copy of FPPC regulation 18530.9; 3. Copy of Governor's fundraising invite

NOTE: Authority cited: Section 83112, Government Code. Reference: Section 85307, Government Code.

HISTORY

New section filed 2-19-2002; operative 3-21-2002 (Register 2002, No. 8)

§ 18530.9. Contributions to Candidate Controlled Ballot Measure Committees.

(a) A ballot measure committee not controlled by a candidate for elective state office is not subject to the provisions of this regulation. A ballot measure committee becomes subject to the provisions of this regulation once it becomes controlled by a candidate for elective state office. However, a ballot measure committee controlled by an individual who ceases to be a candidate as defined in Government Code section 82007 is no longer subject to the provisions of this regulation.

(b) Notwithstanding Government Code sections 85310, subdivision (c), the contribution limits of Government Code sections 85301 and 85302 apply to any committee controlled by a candidate for elective state office that is established for the purpose of supporting or opposing state or local ballot measures. The applicable limit is that which applied to the controlling candidate at the time the ballot measure committee was formed or became controlled by that candidate.

(c) A ballot measure committee that is controlled by more than one candidate for elective state office is subject to the contribution limit of the candidate with the highest contribution limit under Government Code sections 85301 and 85302.

(d) A ballot measure committee primarily formed to support or oppose a ballot measure or measures and controlled by a candidate for elective state office is subject to the post-election fundraising limitations of Government Code section 85316. A general purpose ballot measure committee is not subject to the post-election fundraising limitations of Government Code section 85316.

(e) A ballot measure committee controlled by a candidate for elective state office who also controls more than one committee for elective state office is subject to the highest contribution limit applicable to the candidate's elective state office committees.

(f) The contribution limits applicable to a candidate controlled ballot measure committee under this regulation are subject to periodic adjustment pursuant to Government Code section 83124.

(g) This regulation shall become effective on November 3, 2004.

NOTE: Authority cited: Section 83112, Government Code. Reference: Sections 82016, 82043, 85301 and 85302, Government Code.

HISTORY

1. New section filed 7-26-2004; operative 11-3-2004 (Register 2004, No. 31).

§ 18531. Return of Excessive Contributions.

(a) Contributions which either in the aggregate or on their face exceed the contribution limits of Government Code Sections 85301, 85302 and 85303 shall be deemed not to have been accepted within the meaning of that provision, if returned pursuant to this section.

(b) A monetary contribution shall be returned prior to deposit or negotiation, within 14 days of receipt:

(c) A non-monetary contribution shall be returned by returning to the contributor, within the deadline specified in subdivision (b) any of the following:

(1) The non-monetary contribution.

(2) Its monetary equivalent.

(3) The monetary amount by which the value of the non-monetary contribution exceeds the contribution limits of Government Code Sections 85301, 85302 and 85303.

(d) This regulation shall not be construed to authorize the making or solicitation of any contribution in excess of the contribution limits of Government Code Sections 85301, 85302 and 85303.

(e) Notwithstanding subsections (a) through (c), contributions to a committee, other than a candidate controlled committee, which are earmarked for purposes other than making contributions directly to candidates for elective office shall not be deemed in excess of limits and need

not be returned, provided the contributions are deposited to a separate account within the deadlines prescribed in subsection (b).

NOTE: Authority cited: Section 83112, Government Code. Reference: Sections 85301, 85302 and 85303, Government Code.

HISTORY

1. New section filed 6-23-89; operative 6-23-89 (Register 89, No. 26).

2. Amendment of subsections (a), (b) and (d) and footnote filed 11-16-90; operative 12-26-90 (Register 91, No. 1).

3. Amendment filed 4-26-95; operative 4-26-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 17).

4. Amendment of subsections (a) and (a)(3)-(e), repealer of footnote and amendment of NOTE filed 10-23-96; operative 10-23-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 43).

5. Amendment of NOTE filed 5-26-98; operative 5-26-98. Submitted to OAL for printing only pursuant to *Fair Political Practices Commission v. Office of Administrative Law*; *Linda Stockdale Brewer*, Sacramento Superior Court, Case No. 51275 (1991) (Register 98, No. 22).

6. Amendment of section and NOTE filed 5-4-2001; operative 6-3-2001 (Register 2001, No. 18).

§ 18531.1. Affiliated Entities Sharing One Contribution Limit.

NOTE: Authority cited: Section 83112, Government Code. Reference: Section 85311, Government Code.

HISTORY

1. New section filed 11-10-97; operative 11-10-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 46).

2. Change without regulatory effect adding explanatory Note filed 7-18-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 29).

3. Repealer filed 5-4-2001; operative 6-3-2001 (Register 2001, No. 18).

§ 18531.3. Transfers of Funds Into Officeholder Accounts.

NOTE: Authority cited: Section 83112, Government Code. Reference: Sections 85313 and 89512, Government Code.

HISTORY

1. New section filed 1-6-97 as an emergency; operative 1-6-97. Submitted to OAL for printing only (Register 97, No. 2).

2. Editorial correction of HISTORY 1 (Register 97, No. 25).

3. Section refiled as a permanent regulation 6-17-97; operative 6-17-97. Submitted to OAL for printing only (Register 97, No. 25).

4. Change without regulatory effect adding explanatory Note filed 7-18-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 29).

5. Repealer filed 5-4-2001; operative 6-3-2001 (Register 2001, No. 18).

§ 18531.4. Officeholder Accounts—Reporting.

NOTE: Authority cited: Section 83112, Government Code. Reference: Sections 85200, 85201, 85301-85313, Government Code.

HISTORY

1. New section filed 1-7-97 as an emergency; operative 1-7-97. Submitted to OAL for printing only (Register 97, No. 2).

2. Editorial correction of HISTORY 1 (Register 97, No. 25).

3. Permanent regulation filed 6-19-97; operative 6-19-97. Submitted to OAL for printing only (Register 97, No. 25).

4. Amendment of section and NOTE filed 5-26-98; operative 5-26-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 22).

5. Repealer filed 5-4-2001; operative 6-3-2001 (Register 2001, No. 18).

§ 18531.5. Recall Elections.

(a) Definitions. For purposes of this section:

(1) "Target officer" means an elected officer who is the subject of a recall effort.

(2) "Replacement candidate" means a candidate within the meaning of Government Code section 82007 who is running to replace a target officer in the event the recall is successful and who is on the same ballot as the recall measure.

(b) Application of Contribution and Voluntary Expenditure Limits to State Recalls.

(1) Target Officer. Pursuant to Government Code section 85315, the contribution limits of Chapter 5 of the Act do not apply to contributions accepted by an elected state officer who is the target of a recall into a separate recall committee established to oppose the qualification of the recall measure or the recall election. Pursuant to Government Code section

Proposition 34 and Senate Bill 34

Proposition 34 and Senate Bill 34

Proposition 34, a ballot measure passed by the voters on November 7, 2000, added new campaign finance provisions and made some changes to the disclosure and enforcement provisions of the Act. Senate Bill 34 later modified some of the provisions added by Proposition 34. Some important provisions of Proposition 34 and Senate Bill 34 are highlighted below. (Chapter 102, Stats. 2000 and Chapter 241, Stats. 2001.)

The Commission has adopted regulations and issued advice to implement and interpret these new statutes and will continue to do so. In addition, the Commission has issued Proposition 34 fact sheets to provide additional guidance to state candidates and committees. The FPPC website is an up-to-date source of Proposition 34 and Senate Bill 34 information.

Limits and Restrictions for State Candidates and Committees Including Controlled Ballot Measure Committees:

Contribution Limits. Contributions to candidates for elective state office and to committees, including political parties, for the purpose of making contributions to candidates for elective state office are subject to limits. (See the chart on page 7.) (Sections 85301-85303.) There are no limits on contributions to pay net debt resulting from an election held prior to January 1, 2001. (Section 85321; added by Chapter 241, Stats. 2001.)

Controlled Ballot Measure Committees, Including Recall Committees. Contribution limits apply to committees established to support or oppose state or local ballot measures that are controlled by a state candidate. The applicable limit is the limit that applies to the controlling candidate at the time the ballot measure committee is formed or becomes controlled by the candidate. If the controlling candidate is subject to more than one contribution limit when the ballot measure committee is formed (for example, a member of the senate running for a statewide office), contributions may be made to the ballot measure committee up to the highest limit that applies to the candidate. If more than one state candidate controls a ballot measure committee, contributions to the committee may be made up to the highest limit that applies to one of the controlling candidates. Contributions to a controlled ballot measure committee are not aggregated with contributions to other committees controlled by a state candidate,

including other controlled ballot measure committees. These limits do not apply to a state elected official who is the target of a recall and forms a separate committee to oppose the recall. (Regulations 18530.9 and 18531.5.)

Regulations: Cost of living adjustment. The contribution limits may be adjusted biennially to reflect changes in the Consumer Price Index. New limits went into effect on January 1, 2003~~2005~~, for elections occurring in 2003~~2005~~ and 2004~~2006~~. (See the chart on page 7.) Senate and Assembly candidates who are raising funds to pay outstanding debts from 2001 or 2002 elections are subject to the \$3,000 per contributor per election limit in effect for those elections. For elections held in 2004, senate and assembly candidates are subject to the \$3,200 limit. (Regulations 18535 and 18545.)

Contributions that exceed the limits.

Contributions are not considered received if they are not deposited into the campaign bank account and are returned within 14 days of receipt. For non-monetary contributions, either the item itself, its monetary value, or the monetary amount by which the value of the non-monetary contribution exceeds the limits must be returned within 14 days of receipt. (Regulation 18531.)

Contributions to committees formed before effective date of Proposition 34. There are no contribution limits on state candidate controlled committees formed before January 1, 2001, for elections held prior to January 1, 2001 (November 6, 2002, for statewide candidates), even if the contributions are received after that date. However, contributions may not be raised in excess of net debt outstanding from the election. (Regulations 18531.6 and 18531.61.)

Contribution Limits and Repaid Loans. Loans are contributions subject to contribution limits. However, if a loan has been repaid, the lender, guarantor, endorser, or cosigner may make additional contributions to the same candidate or committee up to the contribution limit. (Regulation 18537.)

- **Lobbyist Prohibition.** A lobbyist may not make a contribution to an elected state officer or a candidate for elective state office if the lobbyist is registered to lobby the agency of the elected state officer or the agency to which the candidate is seeking election. (Section 85702.)

Regulation: Contributions made by a lobbyist include those made from the lobbyist's personal

From: Gina Block [gina@joinarnold.com] on behalf of Renee Croce [renee@joinarnold.com]
Sent:
To: Renee Croce
Subject: Los Angeles Dinner with Governor Schwarzenegger - March 16, 2005

March 16, 2005, is the only event scheduled so far this year in Los Angeles to benefit Governor Schwarzenegger. Now is your chance to show your support for our fantastic Governor!

Please carefully review the memo below from Rick Caruso, Robert Day and David Murdock.

Use the attached response device to reply TODAY to make sure that you are included on the invite as part of the distinguished lists of chairs and co-chairs. If you have questions call (310) 450-2117.

To: FRIENDS OF GOVERNOR SCHWARZENEGGER

From: RICK CARUSO, ROBERT DAY AND DAVID MURDOCK

Subject: Los Angeles Evening with Governor Schwarzenegger

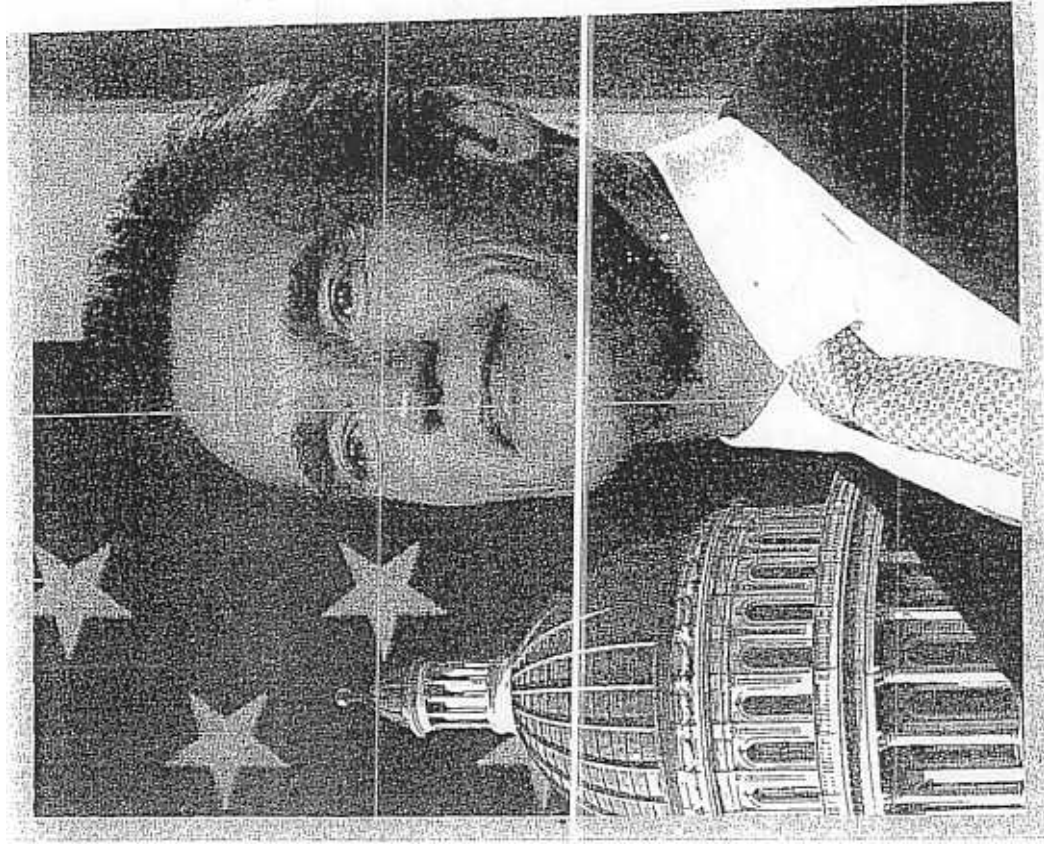
Date: 2/14/2005

We are pleased to be hosting a dinner for Governor Arnold Schwarzenegger on Wednesday, March 16, 2005, at the Century Plaza Hotel in Los Angeles.

In his 2005 State of the State address, Governor Schwarzenegger set forth a historic agenda to fundamentally reform California's political and governmental systems. In his speech, the Governor challenged the Legislature to work with him to achieve desperately needed reforms to our political system, our educational system and our system of spending and budgeting. The Governor indicated that in the event the Legislature was unable to enact responsible, meaningful reforms, he would ask California voters to enact these reforms through the ballot box.

No political figure will be more crucial in this process than Governor Schwarzenegger whose leadership will determine how far we will succeed in implementing this agenda. The Governor needs our support. We are forming an intimate host committee and would appreciate your participation. Please join us for this opportunity to interact with our Governor by calling Renee Croce at (310) 450-2117 or using the attached response form.

*Renee Croce
 Finance Director
 California Recovery Team
 3110 Main Street, Suite 225
 Santa Monica, California 90405*



GOVERNOR SCHWARZENEGGER

STATE FINANCE CHAIRS

Dawn & Roland Arnall	Joan & John Hotchkis
Tina & Rick Caruso	Jennifer Long / Kevin Long
Susan & Alan Casden	David Murdock
Kelly & Robert Day	Margaret & Jerrold Perenchio
William A. Robinson	

STATE FINANCE CO-CHAIRS

Kathy & Frank Baxter	Nancy & David Helwig
Jane & Bert Boeckmann	Olga Castellanos & Mike McGee
Judy & Len Frank	Steven Reuther
Verna Harrah	Eva & Marc Stern
Brian L. Harvey	Allison & Denny Weinberg
Dick Wolf	

DINNER CHAIRS

Emmanuel I. Bernabe	Arthur M. Kassel
Vana & Bob Farina	Gerald L. Karell
Jami & Nikolaus Friedegger	Suzanne & Allen M. Lawrence
Ghada & Ray Irani	Elizabeth & Robert Lowe
Ruth & Thomas V. Jones	Paula Kent Meehan
Sandra Lee & Bruce Karatz	Anthony Robbins
Kathy & Tom Shannon	

DINNER CO-CHAIRS

Brent Bailey	Marlene & Marshall Grossman
Bill Bloomfield	Sanaz & Saied Kashani
Marshall Ezralow	Thomas F. Kranz
Blaine Fetter	Al Plamann
Jean & David Fleming	Bruce Ramer
Doretta & Jona Goldrich	Robert Sears
Cathy & Paul Tosetti	

~PARTIAL LIST~

YOU ARE CORDIALLY INVITED TO

“SPRING INTO ACTION”

WITH

GOVERNOR
ARNOLD SCHWARZENEGGER

ON

WEDNESDAY, MARCH 16, 2005

AT

THE WESTIN CENTURY PLAZA HOTEL & SPA
LOS ANGELES BALLROOM
2025 AVENUE OF THE STARS
LOS ANGELES, CALIFORNIA

6:00 PM RECEPTION 7:00 PM DINNER

RESPONSE DEVICE ENCLOSED
OR CONTACT RENEE CROCE (310) 450.2117

Spring Into Action
with
Governor Schwarzenegger
at
The Century Plaza Hotel
Wednesday, March 16, 2005

We cordially invite you to participate in
the "Spring Into Action" dinner benefiting
Californians for Schwarzenegger 2006
and
Governor Schwarzenegger's California Recovery Team
at one of the commitment levels listed below:

State Finance Chair: \$89,200
(\$44,600 to CFS06 plus \$44,600 to CRT)

Head table seating with the Governor for 2 people
2 tables of 10 with premiere seating
6 tickets for the Host Committee Reception
3 photos with the Governor (2 people per photo)
2 people at a private briefing with the Governor (*date TBD*)
2 "Join Arnold" 2005 commemorative gifts
Listing on all major dinner invitations

☐ **State Finance Co-Chair: \$44,600**
(\$22,300 to CFS06 plus \$22,300 to CRT)

Head table seating with the Governor for 1 person
1 table of 10 with premier seating
4 tickets for the Host Committee Reception
2 photos with the Governor (2 people per photo)
1 person at a private briefing with the Governor (*date TBD*)
1 "Join Arnold" 2005 commemorative gift
Listing on all major dinner invitations

☐ **Dinner Chair: \$22,300 to CFS06**

1 table of 10 with preferred seating
4 tickets for the Host Committee Reception
2 photos with Governor Schwarzenegger (2 people per photo)
Listing on regional dinner invitations

☐ **Dinner Co-Chair: \$10,000 to CFS06**

1 table of 10
2 tickets to the Host Committee Reception
1 photo with Governor Schwarzenegger (2 people per photo)
Listing on regional dinner invitations

Note: At all levels, you may give OR RAISE these amounts. Please indicate which you will be doing.

*The maximum legal contribution to CFS06 and CRT is \$22,300 to each committee in the aggregate from a single source for the primary election cycle in 2006. **Spouses and adult children may each give \$22,300 for each committee by separate check or credit card transactions.***

For further information, please contact:
Renee Croce

♦Tel: 310.450.2117 ♦Fax: 310.450.1761 ♦Email: Renee@joinarnold.com

RESPONSE DEVICE ATTACHED

**"Spring Into Action" Dinner
with Governor Arnold Schwarzenegger
The Century Plaza Hotel, Los Angeles
Wednesday, March 16, 2005**

Yes! I want to "spring into action" with Governor Schwarzenegger.

I agree to give/raise:

- ☐ **State Finance Chair :** \$89,200 (\$44,600 to CFS06 plus \$44,600 to CRT)
- ☐ **State Finance Co-Chair :** \$44,600 (\$22,300 to CFS06 plus \$22,300 to CRT)
- ☐ **Dinner Chair:** \$22,300 to CFS06
- ☐ **Dinner Co-Chair:** \$10,000 to CFS06

*The maximum legal contribution to CFS06 and CRT is \$22,300 to each committee in the aggregate from a single source for the primary election cycle in 2006. **Spouses and adult children may each give \$22,300 for each committee by SEPARATE check or credit card transactions.***

Note: At all levels, you may give OR RAISE these amounts. Please indicate which you will be doing.

THE FOLLOWING INFORMATION IS REQUIRED:

Name: _____ Spouse: _____

Address: _____

City/State/Zip: _____

Phone: _____ Fax: _____

E-mail: _____

Occupation: _____ Retired

Employer: _____

Please print my/our names as follows: _____

Amount of Contribution: \$ _____

CREDIT CARD CONTRIBUTIONS:

- ☐ MasterCard ☐ Visa ☐ American Express

Credit Card #: _____ Expiration Date: _____

If this is a corporate card, by law it will be considered a corporate donation.

Name as it appears on the card: _____

Is this a corporate card? ☐ Yes ☐ No If yes, Corporation Name: _____

Billing Address (if different): _____

Authorized Signature (must be same as name on the card): _____

Please make checks payable to one or both committees and mail:

Californians for Schwarzenegger 2006

Tax ID #59-3776483 FPPC #1261585

Governor Schwarzenegger's California Recovery Team

Tax ID #20-0428735 FPPC# 1261406

c/o Renee Croce, 3110 Main Street, Suite 225, Santa Monica, CA 90405 Phone: 310-450-2117

or you may fax this form to (310) 450-1761

CRT: Governor Schwarzenegger has formed a general purpose ballot measure committee to raise funds to support the Governor's agenda, whether promoted through the initiative process, the legislative process, or grassroots activities. The committee may also use funds to oppose initiatives that harm the Governor's plan for economic recovery and government reform.

Political contributions to either committee are not deductible for federal income tax purposes. Corporate and general PAC contributions are permissible. Contributions from single issue trade associations and public employee union PACs will not be accepted. Foreign Nationals are prohibited from making contributions to either committee, unless they have permanent residency status in the United States of America (a green card).